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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 CLOANTO CORPORATION, *et al.*,

11 Plaintiffs,

12 v.

13 HYPERION ENTERTAINMENT CVBA,

14 Defendant.  
15

Case No. C18-381 RSM

ORDER TO SHOW CAUSE

16 This matter comes before the Court *sua sponte*. Jury trial is currently set for August 3,  
17 2020. Dkt. #82.

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19 On April 8, 2019, the Court denied Plaintiffs' Motion to modify the Scheduling Order to  
20 permit the late filing of a third amended complaint and to join the newly-formed C-A  
21 Acquisition Corporation as a plaintiff. Dkt. #65.

22 On May 8, 2019, C-A and Cloanto circumvented this ruling by simply filing a new  
23 lawsuit against Hyperion. *See* Case No. 19-cv-00683-RSM, Dkt. #1. C-A and Cloanto admit  
24 that these cases are related. *See* Case No. 19-cv-00683-RSM, Dkt. #9. In both cases, Cloanto  
25 sues Hyperion for "trademark infringement and unfair competition under the Lanham Act, 15  
26 U.S.C. § 1119 and § 1125(a)," "declaratory relief under 28 U.S.C. § 2201," and "injunctive  
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1 relief” related to a 2009 Settlement Agreement dealing with Amiga software and marks. *See*  
2 Dkt. #47; Case No. 19-cv-00683-RSM, Dkt. #10. The facts, causes of action, and relief  
3 requested in these cases appear to be nearly identical. Both C-A and Cloanto are represented by  
4 the same counsel, indeed the same counsel that represents Cloanto in the parallel action. C-A  
5 and Cloanto are owned by the same person, Michele “Mike” Console Battilana. Dkt. #57-3  
6 (“Battilana Declaration”), ¶ 2. The Court has found Defendant Hyperion to be in default in this  
7 second lawsuit. Case No. 19-cv-00683-RSM, Dkt. #20. C-A and Cloanto are currently seeking  
8 a default judgment against Hyperion. Case No. 19-cv-00683-RSM, Dkt. #23.

10 Given all of this, the Court does not see how it can proceed in both cases simultaneously  
11 as rulings in one may adversely affect the other. It must hear from the parties in this case.

13 Accordingly, in response to this Order, Cloanto and Hyperion must each write a short  
14 Response informing the Court of the current status of these two cases and answering the  
15 following questions: 1) why these cases should or should not be consolidated, and 2) why Case  
16 No. 19-cv-00683-RSM should or should not be stayed pending the resolution of the instant  
17 action. Each Response may not exceed six (6) pages.

19 The Court hereby finds and ORDERS that the parties shall file these Responses to this  
20 Order to Show Cause **no later than fourteen (14) days from the date of this Order.**

21 DATED this 17<sup>th</sup> day of January 2020.

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24 RICARDO S. MARTINEZ  
25 CHIEF UNITED STATES DISTRICT JUDGE  
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